

REMARKS

Reconsideration and withdrawal of the rejections of the application respectfully requested in view of the remarks and enclosures herewith, which place the application in condition for allowance.

I. STATUS OF CLAIMS AND FORMAL MATTERS

Claims 1-10 are pending in this application.

Claims 1-7 and 10 have been cancelled without prejudice, without admission, without surrender of subject matter, and without any intention of creating any estoppel as to equivalents. Claims 8 and 9 have been amended. The subject matter of non-elected base claims are incorporated into claim 8. Support for vaccination of a patient is found in paragraphs 117 and 118 of the application as published. No new matter has been added by this amendment.

It is submitted that the claims as originally presented were in full compliance with the requirements of 35 U.S.C. § 112. The amendments of the claims, as previously presented, were not made for purposes of patentability within the meaning of 35 U.S.C. §§§§ 101, 102, 103 or 112. Rather, these amendments and additions were made simply for clarification and to round out the scope of protection to which Applicants are entitled.

II. THE PRIORITY CLAIM IS CORRECT

The Office Action alleges that the Applicants have not complied with one or more conditions for receiving the benefit of an earlier filing date. In particular, the Office Action contends that there was no co-pendency between Application No. 09/242,449 ("the '449 application"), which was allegedly abandoned on 10/02/2003, and the instant Application ("the '922 application"), which was filed on 11/03/2003. Applicants respectfully disagree.

Attached hereto as Exhibit A is a true copy of the Petition Under 37 C.F.R. § 1.136(a) filed in connection with the '449 application requesting a three-month extension of time for filing a response to the Office Action mailed May 1, 2003, thereby extending the time for response to November 1, 2003 (which was a Saturday).

Attached hereto as Exhibit B is a true copy of the Transaction History for the '449 application downloaded from the PAIR site indicating that the Request for Extension of Time (Exhibit A) was granted on November 4, 2003.

Contrary to the Office Action, the '449 application was abandoned on Tuesday, November 4, 2003, not October 2, 2003. Accordingly, co-pendency was established between the

‘449 application and the ‘922 application. Therefore, Applicants are entitled to and respectfully request the benefit of the earlier filing date of the ‘449 application.

III. THE OATH/DECLARATION IS NOT DEFECTIVE

The Office Action alleges that the oath or declaration is defective for not adequately identifying the specification to which the oath or declaration is directed. Applicants respectfully disagree.

According to 37 CFR 1.63(d)(1), “[a] newly executed oath or declaration is not required under § 1.51(b)(2) and § 1.53(f) in a continuation or divisional application”. As indicated above, the ‘922 application is a continuation of the ‘449 application.

Attached hereto as Exhibit C is a true copy of the oath or declaration filed in connection with the ‘449 application which was filed on November 3, 2003 in connection with the ‘922 application.

Attached hereto as Exhibit D is a true copy of the Transaction History for the ‘922 application downloaded from the PAIR site indicating that the oath or declaration (Exhibit C) was filed on November 3, 2003.

Accordingly, the oath or declaration is not defective because the oath or declaration in the parent application (the ‘449 application) was filed in compliance with 37 CFR 1.63(d)(1) for the ‘922 application.

IV. THE CLAIM OBJECTIONS ARE OVERCOME

Claims 8 and 9 are objected to because they depend on non-elected base claims. In response, claims 8 and 9 have been clarified to add the recitations of the non-elected base claims.

Reconsideration and withdrawal of the claim objections is respectfully requested.

V. THE CLAIM REJECTIONS UNDER 35 U.S.C. § 112 ARE OVERCOME

Claims 8 and 9 are rejected under 35 U.S.C. § 112, second paragraph, as allegedly being indefinite and for omitting essential steps.

In response, claims 8 and 9 have been clarified, thereby obviating the rejection. The nucleotides encoding specific protein fragments are specified in claim 8, therefore indicating a selection step. Furthermore, administration and conclusion steps have also been indicated.

Reconsideration and withdrawal of the claim rejections is respectfully requested.

VI. THE CLAIM REJECTIONS UNDER 35 U.S.C. § 102 ARE OVERCOME

Claims 8 and 9 are rejected under 35 U.S.C. § 102(b) as allegedly being anticipated by WO 98/07850 to Bergmann et al. (hereinafter “Bergmann”). Applicants respectfully disagree and traverse the rejection.

Bergmann is not prior art. As indicated above, the present application is a continuation of the ‘449 application, which is the national phase application of Bergmann.

Reconsideration and withdrawal of the claim rejections is respectfully requested.

REQUEST FOR INTERVIEW

If any issue remains as an impediment to allowance, a further interview with the Examiner and SPE are respectfully requested; and, the Office Action is additionally requested to contact the undersigned to arrange a mutually convenient time and manner for such an interview.

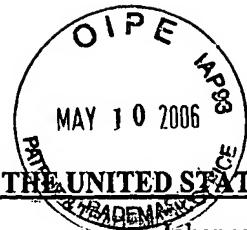
CONCLUSION

In view of the remarks, amendments and Exhibits submitted herewith, the application is believed to be in condition for allowance. Favorable reconsideration of the application and prompt issuance of a Notice of Allowance are earnestly solicited. The undersigned looks forward to hearing favorably from the Examiner at an early date, and, the Examiner is invited to telephonically contact the undersigned to advance prosecution.

Respectfully submitted,

FROMMER LAWRENCE & HAUG LLP
Attorneys for Applicants

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11-05-04

PATENT
830006-2000

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicant

Johanna Bergmann

Ser. No. : 09/242,449

Filing Date : February 16, 1999

For : AGENTS FOR PRE-SYMPOTOMATIC DETECTION AND
THERAPEUTIC TARGETING OF ALZHEIMER'S DISEASE
AND DOWN SYNDROME IN HUMANS

Examiner : Christopher J. Nichols

Group Art Unit : 1643

745 Fifth Avenue
New York, New York 10151

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Date of Deposit: November 3, 2003

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PETITION UNDER 37 CFR 1.136(a)

Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Sir:

Applicants, by their attorneys, hereby petition for a three-month extension of time for
filing a response to the Office Action mailed on May 1, 2003, thereby extending the time for
response to November 1, 2003. Submitted herewith is a check in the amount of \$475.00 to cover
the cost of this Petition. Concurrently with the filing of this Petition, Applicants are filing a

Continuation Application.

11/07/2003 WABDELRI 00000030 09242449

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PATENT
830006-2000

Please charge any additional fees to our Deposit Account 50-0320.

Respectfully submitted,

FROMMER LAWRENCE & HAUG LLP

Attorneys for Applicants

By: William F. Lawrence
William F. Lawrence
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(212) 588-0800

by: Deborah L. Dr
Reg. No. 50,940

Transaction History

Date	Transaction Description
12-08-2003	Mail Abandonment for Failure to Respond to Office Action
12-05-2003	Abandonment for Failure to Respond to Office Action
11-04-2003	Request for Extension of Time - Granted
05-01-2003	Mail Non-Final Rejection
04-29-2003	Non-Final Rejection
04-28-2003	Case Docketed to Examiner in GAU
09-24-2001	Date Forwarded to Examiner
08-28-2001	Response to Election / Restriction Filed
08-28-2001	Request for Extension of Time - Granted
09-12-2001	Case Docketed to Examiner in GAU
08-30-2001	Power to Make Copies and/or Inspect
03-28-2001	Mail Restriction Requirement
03-26-2001	Requirement for Restriction / Election
02-27-2001	Case Docketed to Examiner in GAU
10-26-2000	CRF Is Good Technically / Entered into Database
10-16-2000	Date Forwarded to Examiner
09-28-2000	Response to a Letter to Comply with the Sequence Rules
09-28-2000	Request for Extension of Time - Granted
06-19-2000	Correspondence Address Change
02-16-1999	Initial Exam Team nn
05-10-2000	Mail Letter Requiring CRF (Unreadable, Non-Compliant, Not Submitted)
05-08-2000	CRF Diskette Unreadable / Did Not Comply / Required but Not Submitted
04-07-2000	Change in Power of Attorney (May Include Associate POA)
04-07-2000	Correspondence Address Change
04-07-2000	Change in Power of Attorney (May Include Associate POA)
02-23-2000	Information Disclosure Statement (IDS) Filed
07-07-1999	Case Docketed to Examiner in GAU
05-20-1999	Application Dispatched from OIPE
05-20-1999	IFW Scan & PACR Auto Security Review
05-06-1999	Released to OIPE
05-06-1999	Notice of DO/EO Acceptance Mailed
05-06-1999	371 Application Preexamination Docketing
04-05-1999	371 Application Preexamination Docketing
03-05-1999	IB Paper Match
03-04-1999	371 Application Preexamination Docketing
02-16-1999	Receipt of 371 Request

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PTO/SB/81 (11-96)

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**POWER OF ATTORNEY OR
AUTHORIZATION OF AGENT,
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APPLICATION**

Application Number	09/242,449
Filing Date	02/16/99
First Named Inventor	Johanna Bergmann
Group Art Unit	1643
Examiner Name	Unassigned
Attorney Docket Number	424022000200

I hereby appoint:

Practitioners at Customer Number

OR

Practitioner(s) named below:

Name	Registration Number
Susan K. Lehnhardt	33,943

Place Customer
Number/Bar Code
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as my/our attorney(s) or agent(s) to prosecute the application identified above, and to transact all business in the Patent and Trademark Office connected therewith.

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OR

<input checked="" type="checkbox"/> Firm or Individual Name	Morrison & Foerster, LLP		
Address	1290 Avenue of the Americas		
Address			
City	New York	State	New York ZIP 10104
Country	United States of America		
Telephone	212 468 8186	Fax	212 468 7900

I am the:

Applicant

Assignee of record of the entire interest

Certificate under 37 CFR 3.73(b) is enclosed

SIGNATURE of Applicant or Assignee of Record

Name	Dr. Johanna BERGMANN
Signature	<i>Johanna Bergmann</i>
Date	15/07/1999

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IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicant(s): Bergmann et al.

U.S. Serial No.: 09/242,449

Filing Date: February 16, 1999

For : AGENTS FOR PRE-SYMPTOMATIC DETECTION AND
THERAPEUTIC TARGETING OF ALZHEIMER'S DISEASE AND
DOWN SYNDROME IN HUMANS

Examiner: B. Tedeschi

745 Fifth Avenue
New York, NY 10151

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I hereby certify that this paper is being facsimile transmitted
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Amy Leahy

Type or print name of person signing certification


Signature

August 30, 2002

Date of Signature

ASSOCIATE POWER OF ATTORNEY AND CHANGE OF ADDRESS

Commissioner for Patents
Washington, D.C. 20231

Sir:

The undersigned, Susan K. Lehnhardt, Registration No. 33,943, the attorney of record in this application, appoints William F. Lawrence, Registration No. 28,029 and Amy Leahy, Registration No. 47,739, associate attorney with full power to prosecute this application, make alterations and amendments, and to transact all business in the U.S. Patent and Trademark Office, including to receive the Letters Patent, appoint others as associate attorney, and terminate any powers of attorney previously granted.

Kindly address all correspondence and communications to:

William F. Lawrence
Amy Leahy
Frommer Lawrence & Haug LLP
745 Fifth Avenue
New York, New York 10151
Tel. 212-588-0800
Fax 212-588-0500

Respectfully submitted,

Attorney for Applicant(s)

By Susan Lehnhardt
Susan K. Lehnhardt
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DECLARATION — Utility or Design Patent Application

I hereby claim the benefit under 35 U.S.C. 120 of any United States application(s) or 371(s) of any PCT International application designating the United States of America, the benefit of which is claimed, the subject matter of which of the claims of this application is not disclosed in the prior United States or PCT International application in the manner provided by the first paragraph of 35 U.S.C. 112. I acknowledge the duty to disclose information which is material to patentability as defined in 37 CFR 1.56 which becomes available between the filing date of the prior application and the national or PCT International filing date of this application.

U.S. Parent Application or PCT Parent Number	Parent Filing Date (MM/DD/YYYY)	Parent Patent Number (If applicable)
PCT/EP97/04599	08/22/96	

Additional U.S. or PCT International application numbers are listed on a supplemental priority date sheet PTO/SB/02B attached hereto.

As a named inventor, I hereby appoint the following registered practitioner(s) to prosecute this application and to transact all business in the Patent and Trademark Office connected therewith: Customer Number Place Customer Number or Bar Code Label OR Registered practitioner(s) name/registration number listed below

Name	Registration Number	Name	Registration Number

Additional registered practitioner(s) named on supplemental Registered Practitioners Information sheet PTO/SB/02C attached hereto.

Direct all correspondence to: Customer Number OR Correspondence address below

Name DR. JOHANNA BERGMANN

Address HOFERIKESTR. 22

Address HAMBURG

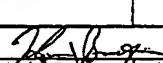
City HAMBURG State ZIP 22587

Country GERMANY Telephone 49 40 86662948 Fax 49 40 86662149

I hereby declare that all information contained in my own knowledge are true and that all statements made on information and belief are believed to be true and further that these statements are made with the knowledge that willful false statements and the like are punishable by fine or imprisonment, or both, under 18 U.S.C. 1001 and that such willful false statements may jeopardize the validity of the application or any patent issued thereon.

Name of Sole or First Inventor: A position has been held for this unsigned inventor

Given Name (first and middle if any) JOHANNA Family Name or Surname BERGMANN

Inventor's Signature 

Date 02/10/98

Residence: City HAMBURG State GERMANY Country GERMANY

Post Office Address HOFERIKESTR. 22

Post Office Address HAMBURG State ZIP 22587 Country GERMANY

Additional inventors are being named on the supplemental Additional Inventor(s) sheet(s) PTO/SB/02A attached hereto

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DECLARATION		ADDITIONAL INVENTOR(S) Supplemental Sheet Page <u>1</u> of <u>1</u>			
Name of Additional Joint Inventor, if any:		<input type="checkbox"/> A petition has been filed for this unsigned inventor			
Given Name (first and middle [if any])		Family Name or Surname			
ENRIQUE <u>PREDIE</u>		PREDIE			
Inventor's Signature	<u>ENRIQUE PREDIE</u>			Date	
Residence: City	MONTRÉAL	State	Quebec	Country	CANADA
Post Office Address					
Post Office Address					
City	MONTRÉAL	State	Que	ZIP	1H3X2Z
Name of Additional Joint Inventor, if any:		<input type="checkbox"/> A petition has been filed for this unsigned inventor			
Given Name (first and middle [if any])		Family Name or Surname			
Inventor's Signature				Date	
Residence: City		State		Country	
Post Office Address					
Post Office Address					
City		State		ZIP	
Name of Additional Joint Inventor, if any:		<input type="checkbox"/> A petition has been filed for this unsigned inventor			
Given Name (first and middle [if any])		Family Name or Surname			
Inventor's Signature				Date	
Residence: City		State		Country	
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DECLARATION — Supplemental Priority Data Sheet

Additional foreign applications:

Additional provisional applications:

Application Number	Filing Date (MM/DD/YYYY)

Additional U.S. applications:

U.S. Parent Application Number	PCT Parent Number	Parent Filing Date (MM/DD/YYYY)	Parent Patent Number (if applicable)

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Mail Room Date	Document Description	Page Count
02-07-2006	Non-Final Rejection	10
02-07-2006	List of references cited by examiner	1
02-07-2006	Index of Claims	1
02-07-2006	Search information including classification, databases and other search related notes	1
02-02-2006	Examiner's search strategy and results	22
01-03-2006	Response to Election / Restriction Filed	2
01-03-2006	Applicant Arguments/Remarks Made in an Amendment	7
11-04-2005	Requirement for Restriction/Election	15
11-04-2005	Index of Claims	1
03-21-2005	Preliminary Amendment	1
03-21-2005	Applicant Arguments/Remarks Made in an Amendment	2
03-21-2005	Drawings	2
03-10-2005	Miscellaneous Action with SSP	2
12-03-2004	CRF entered - partial listing printed by STIC	7
10-14-2004	Fee Worksheet (PTO-875)	1
10-14-2004	Applicant Response to Pre-Exam Formalities Notice	2
10-14-2004	Preliminary Amendment	1
10-14-2004	Specification	1
10-14-2004	Applicant Arguments/Remarks Made in an Amendment	1
10-14-2004	Sequence Listing	8
10-14-2004	Drawings	2
09-01-2004	Pre-Exam Formalities Notice	2
11-03-2003	Transmittal letter	5
11-03-2003	Authorization for Extension of Time all replies	5
11-03-2003	Specification	29
11-03-2003	Claims	3
11-03-2003	Abstract	4
11-03-2003	Drawings	16
11-03-2003	Oath or Declaration filed	6
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